

## Missouri Attorney General's Opinions - 2006

Opinion	Date	Topic	Summary
<a href="#">53-2006</a>	Jan 6	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning an initiative petition (version 4) to amend Article I, Section 7 of the Constitution of Missouri.
<a href="#">58-2006</a>	Jan 23	INITIATIVE PETITION. INITIATIVES.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, printed on white paper, to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.
<a href="#">59-2006</a>	Jan 23	INITIATIVE PETITION. INITIATIVES.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, printed on blue paper, to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.
<a href="#">61-2006</a>	Jan 24	CITY OFFICERS - OFFICIALS. CONFLICT OF INTEREST. TAX INCREMENT FINANCING. TAXATION - CITIES, TOWNS AND VILLAGES.	An alderman or TIF commissioner who owns real property within a proposed redevelopment area has an "interest, direct or indirect, in any property" within a proposed redevelopment area, and that alderman or commissioner is thus barred by § 99.820.1(13), RSMo Cum. Supp. 2005, from voting on matters pertaining to the redevelopment plan for that area.
<a href="#">62-2006</a>	Jan 30	INITIATIVE PETITION. INITIATIVES.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, printed on cream paper, to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.
<a href="#">67-2006</a>	Feb 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding an initiative petition (printed on white paper) for a proposed amendment to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.
<a href="#">68-2006</a>	Feb 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding an initiative petition (printed on blue paper) for a proposed amendment to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.

<a href="#">69-2006</a>	Feb 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo 2000, regarding an initiative petition (printed on cream paper) for a proposed amendment to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.
<a href="#">72-2006</a>	Feb 10	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning an initiative petition to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.
<a href="#">73-2006</a>	Feb 21	INITIATIVE PETITION. INITIATIVES.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article VI, Section 21 of the Constitution of Missouri, relating to eminent domain.
<a href="#">78-2006</a>	Feb 21	INITIATIVE PETITION. INITIATIVES.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, to amend Article I, Section 26 of the Constitution of Missouri, relating to eminent domain.
<a href="#">80-2006</a>	Feb 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning an initiative petition (printed on blue paper) to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.
<a href="#">81-2006</a>	Feb 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning an initiative petition (printed on cream paper) to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.
<a href="#">82-2006</a>	Feb 21	INITIATIVE PETITION. INITIATIVES.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article I, Sections 26 and 28 of the Constitution of Missouri, relating to eminent domain.
<a href="#">83-2006</a>	Feb 21	INITIATIVE PETITION. INITIATIVES.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition to adopt a new Section 21(a) of Article VI of the Constitution of Missouri, relating to eminent domain and the development of flood plains, wetlands, and agricultural land (version 2).
<a href="#">84-2006</a>	Feb 28	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition to amend Chapter 290 of the Revised Statutes of Missouri, relating to the minimum wage.
<a href="#">86-2006</a>	Mar 9	INITIATIVE PETITION.	Review and approval of the sufficiency as to form of an initiative

		INITIATIVES.	petition to adopt and add a new article to the Constitution of Missouri to be known as Regulation of Human-Animal Crossbreeds, Cloning, Transhumanism, and Human Engineering Is Reserved to the People.
<a href="#">87-2006</a>	Mar 9	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition to add a new Article XIV with subsections to the Constitution of Missouri relating to state spending.
<a href="#">88-2006</a>	Mar 9	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition to adopt a new section of the Constitution of Missouri, to be known as Section 26 of Article I, relating to eminent domain (version 2).
<a href="#">89-2006</a>	Mar 13	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition for a proposed constitutional amendment to add a new section, Section 21(a), to Article VI relating to eminent domain and development of floodplains, wetlands, and agricultural land (version 2).
<a href="#">90-2006</a>	Mar 13	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition for a proposed constitutional amendment to amend Article VI, Section 21 relating to eminent domain (version 2).
<a href="#">91-2006</a>	Mar 13	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition for a proposed constitutional amendment to amend Article I, Sections 26 and 28 relating to eminent domain (version 2).
<a href="#">92-2006</a>	Mar 13	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition for a proposed constitutional amendment to add a new Section 26 to Article I, relating to eminent domain (version 2).
<a href="#">93-2006</a>	Mar 16	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition to adopt a constitutional amendment to Article I, Sections 26 and 28 relating to eminent domain (version 2).
<a href="#">94-2006</a>	Mar 9	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition to amend Chapter 290 of the Revised Statutes of Missouri, relating to the minimum wage (version 2).
<a href="#">95-2006</a>	Mar 16	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition to adopt a constitutional amendment to Article VI, Section 21 relating to eminent domain and development of floodplains, wetlands, and agricultural land (version 2).
<a href="#">96-2006</a>	Mar 10	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition to adopt a constitutional amendment to Article VI, Section 21 relating to eminent

			domain (version 2).
<a href="#">97-2006</a>	Mar 13	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition for a proposed statutory amendment to Chapter 290 of the Revised Statutes of Missouri relating to raising the minimum wage.
<a href="#">101-2006</a>	Mar 24	INITIATIVE PETITION. INITIATIVES.	Review and rejection of the sufficiency as to form of an initiative petition to amend Article IV, Section 17 of the Constitution of Missouri pertaining to the recall of statewide elected officials.
<a href="#">102-2006</a>	Mar 24	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition to amend Article IV, Section 36(a) of the Constitution of Missouri pertaining to economic development.
<a href="#">103-2006</a>	Mar 27	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition for a proposed constitutional amendment adding a new section pertaining to the regulation of cloning and human engineering.
<a href="#">104-2006</a>	Mar 30	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition for a proposed constitutional amendment to add a new Article XIV pertaining to state spending (version 2).
<a href="#">105-2006</a>	Mar 30	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition for a proposed constitutional amendment to add a new section pertaining to the regulation of cloning and human research.
<a href="#">106-2006</a>	Mar 30	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition for a proposed constitutional amendment to add a new Article XIV relating to state spending (version 2).
<a href="#">108-2006</a>	Apr 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition to modify Section 36(a) of Article IV of the Constitution of Missouri, relating to economic development (technology parks).
<a href="#">110-2006</a>	Apr 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition to amend Section 36(a) of Article IV of the Constitution of Missouri, relating to economic development (technology parks).
<a href="#">113-2006</a>	Apr 18	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition to add a new Section 17(b) to Article IV of the Constitution of Missouri pertaining to recall of statewide elected officials (version 2).
<a href="#">114-2006</a>	Apr 24	FAIR BALLOT LANGUAGE. SENATE JOINT RESOLUTION.	Review and approval of a proposed fair ballot language statement with respect to Senate Joint Resolution 1, pertaining to the one-tenth percent sales/use tax for soil and water conservation, state parks, and historic sites.



<a href="#">115-2006</a>	May 3	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement for an initiative petition to amend the Constitution of Missouri by adding Section 17(b) to Article IV, pertaining to recall of statewide elected officials (version 2).
<a href="#">116-2006</a>	May 15	COLLEGES. OFFICERS. RESIDENCE. VACANCY IN OFFICE.	If trustees of community college districts who are elected to represent subdistricts, and who must be residents of those subdistricts at the time of election pursuant to Section 178.820, RSMo 2000, move their residence from those subdistricts, those trustees are disqualified from the office of trustee.
<a href="#">118-2006</a>	May 11	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition to modify Section 17 of Article IV of the Constitution of Missouri, relating to the recall of statewide elected officials.
<a href="#">119-2006</a>	May 5	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note and fiscal note summary concerning an initiative petition to modify Section 26 of Article I of the Constitution of Missouri, relating to eminent domain (version 2).
<a href="#">121-2006</a>	Jun 1	FAIR BALLOT LANGUAGE.	Review and approval of a proposed fair ballot language statement with respect to Constitutional Amendment No. 2 pertaining to stem cell research.
<a href="#">122-2006</a>	June 5	FAIR BALLOT LANGUAGE.	Review and approval of a proposed fair ballot language statement with respect to an initiative petition concerning Medicaid.
<a href="#">123-2006</a>	June 5	FAIR BALLOT LANGUAGE.	Review and approval of a proposed fair ballot language statement with respect to an initiative petition concerning a tobacco tax.
<a href="#">124-2006</a>	June 5	FAIR BALLOT LANGUAGE.	Review and approval of a proposed fair ballot language statement with respect to an initiative petition concerning the minimum wage.
<a href="#">126-2006</a>	June 19	SENATE JOINT RESOLUTIONS. JOINT RESOLUTIONS.	Review and approval of a summary statement concerning a proposed constitutional amendment passed by the Missouri General Assembly (Senate Joint Resolution 26) relating to a tax exemption and veterans' organizations.
<a href="#">127-2006</a>	June 19	FAIR BALLOT LANGUAGE. SENATE JOINT RESOLUTIONS. JOINT RESOLUTIONS.	Review and approval of a proposed fair ballot language statement with respect to Senate Joint Resolution 26, pertaining to a tax exemption and veterans' organizations.
<a href="#">128-2006</a>	June 19	FAIR BALLOT LANGUAGE. HOUSE JOINT RESOLUTIONS. JOINT RESOLUTIONS.	Review and approval of a proposed fair ballot language statement with respect to House Joint Resolution 55, pertaining to the state pensions and compensation of certain officials.

<a href="#">129-2006</a>	June 22	INITIATIVE AND REFERENDUM. REFERENDUM.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of a referendum petition sample sheet, submitted by Missouri Election Reform Project, Inc., to repeal the provisions of HB 1900 pertaining to campaign finance.
<a href="#">131-2006</a>	July 7	BALLOTS. JOINT RESOLUTIONS. SENATE JOINT RESOLUTIONS.	Review and approval of a fiscal note and fiscal note summary for Senate Joint Resolution 26 for a proposed constitutional amendment relating to veterans' organizations and tax exemption.
<a href="#">132-2006</a>	July 7	BALLOTS. HOUSE JOINT RESOLUTIONS. JOINT RESOLUTIONS.	Review and approval of a fiscal note and fiscal note summary for House Joint Resolution 55 for a proposed constitutional amendment relating to public officials.
<a href="#">133-2006</a>	July 10	BALLOTS. INITIATIVE AND REFERENDUM. REFERENDUM.	Review and approval pursuant to Section 116.334, RSMo, of the summary statement for a referendum relating to House Bill 1900 and campaign finance.
<a href="#">134-2006</a>	July 11	BALLOTS. INITIATIVE AND REFERENDUM. REFERENDUM.	Review and approval of the fiscal note and revised fiscal note summary for a referendum petition on House Bill 1900 pertaining to campaign finance.
<a href="#">139-2006</a>	Aug 24	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a revised fiscal note and fiscal note summary concerning an initiative petition for a proposed constitutional amendment to add a new Article XIV relating to state spending (version 2).
<a href="#">140-2006</a>	Sep 1	APPOINTIVE OFFICERS. CITY COUNCIL - COUNCILMEN. CITIES, TOWNS AND VILLAGES. ELECTIVE OFFICERS. REMOVAL FROM OFFICE.	A city councilperson appointed by the mayor to fill a vacancy for the unexpired term of that position must be removed in accordance with the procedures applicable to elective, rather than appointive, officials set forth in Section 77.340.



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

January 6, 2006

Opinion Letter No. 53-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office is in receipt of your letter of January 3, 2006, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, relating to an amendment of the Missouri Constitution, Article I, Section 7 (Version 4). The fiscal note summary that you submitted is as follows:

The fiscal impact to state and local government is unknown.

Pursuant to § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



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January 23, 2006

OPINION LETTER NO. 58-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 12, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, printed on white paper, to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
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January 23, 2006

OPINION LETTER NO. 59-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 13, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, printed on blue paper, to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

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JEREMIAH W. (JAY) NIXON  
Attorney General

CITY OFFICERS - OFFICIALS:

CONFLICT OF INTEREST:

TAX INCREMENT FINANCING:

TAXATION - CITIES, TOWNS AND VILLAGES:

An alderman or TIF commissioner who owns real property within a proposed redevelopment area has an "interest, direct or indirect, in any property" within a proposed

redevelopment area, and that alderman or commissioner is thus barred by § 99.820.1(13), RSMo Cum. Supp. 2005, from voting on matters pertaining to the redevelopment plan for that area.

OPINION NO. 61-2006

January 24, 2006

Honorable Bob Johnson  
State Representative, District 47  
Room 400, State Capitol Building  
Jefferson City, MO 65101

Dear Representative Johnson:

You have submitted the following question to this office for response:

An alderman, or member of a TIF commission appointed pursuant to § 99.820.2, is the owner of real property in an area proposed for a redevelopment project under § 99.820. Does § 99.820.1(13) bar that owner from voting, either as an alderman or as a member of the TIF commission, on any matter pertaining to the redevelopment plan?

Section 99.820, RSMo Cum. Supp. 2005,<sup>1</sup> outlines the powers and duties of municipalities in relation to real property tax increment allocation redevelopment. Under § 99.820.2, a municipality must create a commission prior to adopting an ordinance relating to a redevelopment plan and must follow certain guidelines in appointing members to the commission.

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<sup>1</sup>Unless otherwise noted, all statutory references are to RSMo Cum. Supp. 2005.

Section 99.820.1(13), which relates to property interests of commission members or aldermen involved in a redevelopment project, addresses conflicts of interest among those officials:

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs[.]

Under Missouri law, we use the “plain or ordinary and usual sense” of words and phrases found in Missouri statutes. See § 1.090, RSMo 2000; *J.S. v. Beaird*, 28 S.W.3d 875, 876 (Mo. banc 2000) (citing *State ex rel. Maryland Heights Fire Prot. Dist. v. Campbell*, 736 S.W.2d 383, 387 (Mo. banc 1987)).



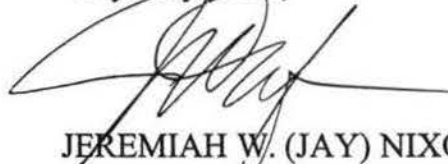
Honorable Bob Johnson  
Page 3

Applying the plain and ordinary meaning of the terms “interest, direct or indirect, in any property,” ownership of real property within a proposed redevelopment area is a “direct” “interest” in property in that area. Thus an alderman or TIF commissioner who owns real property within a proposed redevelopment area has an “interest, direct or indirect, in any property” within that area, and that alderman or commissioner is barred by § 99.820.1(13) from voting on matters pertaining to the redevelopment plan.

#### CONCLUSION

An alderman or TIF commissioner who owns real property within a proposed redevelopment area has an “interest, direct or indirect, in any property” within a proposed redevelopment area, and that alderman or commissioner is thus barred by § 99.820.1(13), RSMo Cum. Supp. 2005, from voting on matters pertaining to the redevelopment plan for that area.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jay Nixon', is written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

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January 30, 2006

OPINION LETTER NO. 62-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 27, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, printed on cream paper, to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", is written over the typed name.

JEREMIAH W. (JAY) NIXON  
Attorney General



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February 14, 2006

OPINION LETTER NO. 67-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of February 3, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for a constitutional amendment relating to a tobacco tax (petition printed on white paper). The proposed summary statement is as follows:

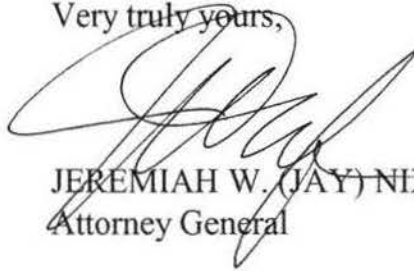
Shall the Missouri Constitution be amended to create a Healthy  
Future Trust Fund which will:

1. be used to reduce and prevent tobacco use, to increase funding for healthcare access and treatment for eligible low-income individuals and Medicaid recipients, and to cover administrative costs;
2. be funded by a tax of four cents per cigarette and twenty percent on other tobacco products; and
3. be kept separate from general revenue and annually audited?

Honorable Robin Carnahan  
Page 2

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the printed name and title.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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February 14, 2006

OPINION LETTER NO. 68-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of February 3, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for a constitutional amendment relating to a tobacco tax (petition printed on blue paper). The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to create a Healthy  
Future Trust Fund which will:

1. be used to reduce and prevent tobacco use, to increase funding for healthcare access and treatment for eligible low-income individuals and Medicaid recipients, and to cover administrative costs;
2. be funded by a tax of four cents per cigarette and twenty percent on other tobacco products; and
3. be kept separate from general revenue and annually audited?

Honorable Robin Carnahan

Page 2

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



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February 14, 2006

OPINION LETTER NO. 69-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of February 3, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for a constitutional amendment relating to a tobacco tax (petition printed on cream paper). The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to create a Healthy  
Future Trust Fund which will:

1. be used to reduce and prevent tobacco use, to increase funding for healthcare access and treatment for eligible low-income individuals and Medicaid recipients, and to cover administrative costs;
2. be funded by a tax of four cents per cigarette and twenty percent on other tobacco products; and
3. be kept separate from general revenue and annually audited?



Honorable Robin Carnahan  
Page 2

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jay Nixon', is written over the printed name.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

February 10, 2006

OPINION LETTER NO. 72-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of February 10, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax. The fiscal note summary that you submitted is as follows:

Additional taxes of four cents per cigarette and twenty percent of the manufacturer's invoice price on other tobacco products generates an estimated \$351 - \$499 million annually for tobacco control programs, healthcare for low income Missourians, and payments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Local governmental fiscal impact is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

February 21, 2006

OPINION LETTER NO. 73-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 9, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Ron Calzone and Missouri Citizens for Property Rights, to amend Article VI, Section 21 of the Constitution of Missouri, relating to eminent domain.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jeremiah W. Nixon".

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY  
65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

February 21, 2006

OPINION LETTER NO. 78-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 9, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Patrick Tuohey and Missourians in Charge, to amend Article I, Section 26 of the Constitution of Missouri, relating to eminent domain.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

February 14, 2006

OPINION LETTER NO. 80-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of February 14, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax (blue paper). The fiscal note summary that you submitted is as follows:

Additional taxes of four cents per cigarette and twenty percent of the manufacturer's invoice price on other tobacco products generates an estimated \$351 - \$499 million annually for tobacco control programs, healthcare for low income Missourians, and payments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Local governmental fiscal impact is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a circular embossed seal of the Attorney General of Missouri.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

February 14, 2006

OPINION LETTER NO. 81-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of February 14, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition to adopt a new section of the Constitution of Missouri, to be known as Section 37(b) of Article IV, relating to a tobacco tax (cream paper). The fiscal note summary that you submitted is as follows:

Additional taxes of four cents per cigarette and twenty percent of the manufacturer's invoice price on other tobacco products generates an estimated \$351 - \$499 million annually for tobacco control programs, healthcare for low income Missourians, and payments for services provided to Missouri Medicaid beneficiaries and uninsured Missourians. Local governmental fiscal impact is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

February 21, 2006

OPINION LETTER NO. 82-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 14, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Bruce Hillis and Missouri Citizens for Property Rights, to amend Article I, Sections 26 and 28 of the Constitution of Missouri, relating to eminent domain.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General





ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

February 21, 2006

OPINION LETTER NO. 83-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 17, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition submitted by Marc Ellinger, to adopt a new section of the Constitution of Missouri, to be known as Section 21(a) of Article VI, relating to eminent domain and the development of flood plains, wetlands, and agricultural land (Version 2).

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon".

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

February 28, 2006

OPINION LETTER NO. 84-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 21, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition submitted by James Kottmeyer to amend Chapter 290 of the Revised Statutes of Missouri, relating to the minimum wage.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

March 9, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 86-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 27, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by David Reardon, Paula Talley, and the Elliot Institute, to adopt and add a new article to the Constitution of Missouri to be known as Regulation of Human-Animal Crossbreeds, Cloning, Transhumanism, and Human Engineering Is Reserved to the People.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a circular embossed seal.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 9, 2006

OPINION LETTER NO. 87-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated March 1, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Patrick Tuohey and Missourians in Charge, to add a new Article XIV with subsections to the Constitution of Missouri, relating to state spending.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", is written over a circular embossed seal.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 9, 2006

OPINION LETTER NO. 88-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of March 1, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by Patrick Tuohey (version 2), to adopt a new section of the Constitution of Missouri to be known as Section 26 of Article I, relating to eminent domain. The fiscal note summary that you submitted is as follows:

The total fiscal impact to state government is unknown, but estimated to exceed \$100,000. The fiscal impact to local government is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 13, 2006

OPINION LETTER NO. 89-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of March 3, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for a constitutional amendment submitted by Marc Ellinger (version 2) adding a new section to be known as Section 21(a) of Article VI relating to eminent domain and development of floodplains, wetlands, and agricultural land. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended so that local governments are:

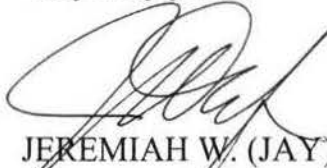
- Prohibited from using eminent domain (except to construct streets and sanitary sewers) or economic incentives to develop private property located within any 100-year floodplain, wetland, or property which has been used for agricultural purposes within the preceding five years; and
- Prohibited from constructing any levee or other flood control structure within the 100-year floodplain unless seventy-five percent or more of

Honorable Robin Carnahan  
Page 2

the surface area of the land to be protected  
contains structures or streets?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the printed name.

JEREMIAH W. (JAY) NIXON  
Attorney General





ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 13, 2006

OPINION LETTER NO. 90-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of March 13, 2006, submitting to us a revised summary statement prepared under Section 116.334, RSMo, for a constitutional amendment submitted by Ron Calzone and Missouri Citizens for Property Rights (version 2) to amend Article VI, Section 21 relating to eminent domain. The proposed summary statement is as follows:

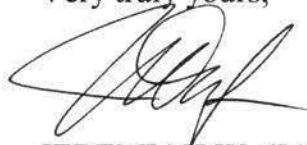
Shall the Missouri Constitution be amended to change the  
power of any constitutionally chartered city or  
county to:

- Prohibit their use of eminent domain to acquire and resell property found to be blighted, substandard or unsanitary for the purpose of clearance, redevelopment or rehabilitation; and
- Allow them to require owners of property which is found to be a public nuisance to abate or clean up the nuisance and, if the property owner fails to do so in a reasonable time, allow the local government to pay for the abatement and impose a lien to recover the cost?

Honorable Robin Carnahan  
Page 2

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeremiah W. Nixon', written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
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March 13, 2006

OPINION LETTER NO. 91-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of March 13, 2006, submitting to us a revised summary statement prepared under Section 116.334, RSMo, for a constitutional amendment submitted by Bruce Hillis and Missouri Citizens for Property Rights (version 2) to amend Article I, Sections 26 and 28 relating to eminent domain. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to restrict the use of eminent domain by:

- Allowing only government entities to use eminent domain;
- Prohibiting its use for private purposes, with certain exceptions for utilities;
- Requiring that any taking of property be necessary for a public use and that landowners receive just compensation;

- Requiring that the intended public use be declared at the time of the taking and permitting the original owners to repurchase the property if it is not so used within five years or if the property is offered for sale within 20 years?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 13, 2006

OPINION LETTER NO. 92-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of March 3, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for a constitutional amendment submitted by Patrick Tuohey and Missourians in Charge (version 2) adding a new Section 26 to Article I relating to eminent domain. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to:

- Prohibit a public entity from taking private property through eminent domain for the purpose of conveying the property to another private landowner, unless the property is condemned or is needed for transportation, telecommunications or utility or transmission systems; and
- Prohibit a public entity from limiting a private landowner's right to use, sell or possess private property without just compensation?

Honorable Robin Carnahan  
Page 2

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the printed name.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 16, 2006

OPINION LETTER NO. 93-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of March 6, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by Bruce Hillis (version 2), to adopt an amendment to Article I, Sections 26 and 28 of the Constitution of Missouri, relating to eminent domain. The fiscal note summary that you submitted is as follows:

The total fiscal impact to state government is unknown, but estimated to exceed \$100,000. The fiscal impact to local government is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a large, stylized oval flourish.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 9, 2006

OPINION LETTER NO. 94-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of March 7, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by James Kottmeyer (version 2), to amend Chapter 290 of the Revised Statutes of Missouri, relating to the minimum wage. The fiscal note summary that you submitted is as follows:

The proposed revisions to Missouri's wage rate laws generates an estimated \$3.3 million to \$4.3 million annually in state revenue. The impact on local government is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General





ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 16, 2006

OPINION LETTER NO. 95-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of March 8, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by Marc Ellinger (version 2), to adopt an amendment to Article VI, Section 21 of the Constitution of Missouri, relating to eminent domain and development of floodplains, wetlands, and agricultural land. The fiscal note summary that you submitted is as follows:

The fiscal impact to state and local government is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 10, 2006

OPINION LETTER NO. 96-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of March 9, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by Ron Calzone (version 2), to adopt an amendment to Article VI, Section 21 of the Constitution of Missouri, relating to eminent domain. The fiscal note summary that you submitted is as follows:

The fiscal impact to state and local government is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

March 13, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 97-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of March 10, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for a statutory amendment to Chapter 290 of the Revised Statutes of Missouri submitted by James Kottmeyer relating to raising the minimum wage. The proposed summary statement is as follows:

Shall Missouri Statutes be amended to increase the state minimum wage rate to \$6.50 per hour, or to the level of the federal minimum wage if that is higher, and thereafter adjust the state minimum wage annually based on changes in the Consumer Price Index?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 24, 2006

OPINION LETTER NO. 101-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated March 15, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Steven L. Reed, to amend Article IV, Section 17 of the Constitution of Missouri pertaining to the recall of statewide elected officials.

We conclude that the petition must be rejected for the following reasons:

1. The measure is prefaced, in part, by the following language: "Section 17 of article IV of the Constitution of Missouri is amended by adding Section 17(B)." The petition would amend Article IV, but not existing Section 17 thereof. Instead, the petition proposes a new section of Article IV, to be known as Section 17(b).
2. The measure unnecessarily includes the phrase "MISSOURI CONSTITUTION."
3. The measure contains typographical errors in the 15th and 16th lines, which contain the phrase "to recall an office rand [sic], if appropriate, . . . ."

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist. Pursuant to

Honorable Robin Carnahan  
Page 2

Section 116.332.3, RSMo, the Secretary of State is authorized to review this opinion and  
“make a final decision as to the approval or rejection of the form of the petition.”

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeremiah W. Nixon', with a stylized flourish at the end.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

March 24, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 102-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated March 15, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Steven L. Reed, to amend Article IV, Section 36(a) of the Constitution of Missouri pertaining to economic development.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Nixon", is written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 27, 2006

OPINION LETTER NO. 103-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of March 17, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by David Reardon, Paula Talley, and the Elliot Institute, for a proposed constitutional amendment adding a new section pertaining to the regulation of cloning and human engineering. The fiscal note summary that you submitted is as follows:

The proposed constitutional amendment would have an estimated annual fiscal impact on state and local government of \$0 - \$100,000.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jay Nixon", is written over a faint circular stamp.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

March 30, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 104-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of March 30, 2006, submitting to us a revised summary statement prepared under Section 116.334, RSMo, for a proposed constitutional amendment submitted by Patrick Tuohey and Missourians in Charge (version 2) to add a new Article XIV pertaining to state spending. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to only allow an increase in the total amount of legislative appropriations (excluding federal funds and certain other funds) to be expended in a fiscal year based on a change in inflation and population, unless a legislatively predetermined higher level is approved by a two-thirds vote of the legislature and the change is passed in a statewide election; and to require any revenues in excess of appropriations to fully fund two additional legislatively controlled special funds before any such excess revenues will be refunded to individual taxpayers?

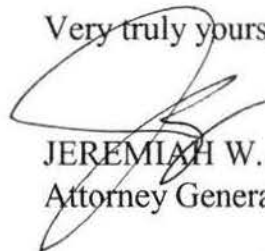
Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take



Honorable Robin Carnahan  
Page 2

with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to be "Jay Nixon", written over the printed name.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

March 30, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 105-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of March 20, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for an initiative petition submitted by David Reardon and the Elliot Institute to adopt and add a new section to the Constitution of Missouri pertaining to the regulation of cloning and human research. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to reserve to the people regulation of human engineering, including alteration of cell structure, except:

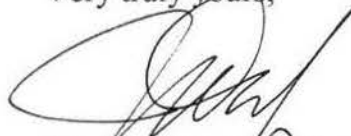
- Therapeutic procedures performed on nascent human life to correct genetic abnormalities;
- Therapeutic or experimental treatments that have been successfully demonstrated on at least three animal species and are performed to benefit an individual using nondestructively obtained embryonic stem cells;
- In vitro fertilization only if unaltered human gamete is implanted in a female human;

And to impose criminal penalties not less than those for aggravated homicide and allow civil lawsuits including actions on behalf of unidentified humans?

Honorable Robin Carnahan  
Page 2

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

March 30, 2006

OPINION LETTER NO. 106-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of March 21, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by Patrick Tuohey (version 2), to add a new Article XIV to the Constitution of Missouri relating to state spending. The fiscal note summary that you submitted is as follows:

The estimated fiscal impact on state government is approximately \$280 million for fiscal year 2008. The impact on state government for future years is unknown. The impact on local government is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

April 14, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 108-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of April 4, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by Steven L. Reed, for a proposed constitutional amendment modifying Section 36(a) of Article IV of the Constitution of Missouri, relating to economic development (technology parks). The fiscal note summary that you submitted is as follows:

The proposed constitutional amendment will impose an additional sales tax of one-tenth of one percent for one year. The additional revenues of approximately \$84 million will be used for the promotion and development of Technology Parks in Missouri.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

April 14, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 110-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of April 6, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for an initiative petition submitted by Steven L. Reed to amend Section 36(a) of Article IV of the Constitution of Missouri relating to economic development (technology parks). The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to impose for a period of one year a state sales/use tax of one tenth of one percent to provide additional money for the State Economic Development Department to be used solely for the promotion and development of one or more "Technology Parks" in Missouri, subject to the provisions of and to be collected as provided in the "Sales Tax Law" and the "Compensating Use Tax Law" and subject to the rules and regulations promulgated in connection therewith?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

April 18, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 113-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated April 11, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition submitted by Steven L. Reed to amend the Constitution of Missouri by adding Section 17(b) to Article IV, pertaining to recall of statewide elected officials (version 2).

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON

Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

April 24, 2006

OPINION LETTER NO. 114-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a revised proposed fair ballot language statement with respect to SJR 1, pertaining to the one-tenth percent sales/use tax for soil and water conservation, state parks, and historic sites. The fair ballot language statement, prepared pursuant to Section 116.025, RSMo, is as follows:

A “yes” vote will amend the Missouri Constitution to:

- reauthorize for ten years the one-tenth percent sales/use tax for (1) soil and water conservation; and (2) state parks and historic sites; and
- resubmit this issue to a vote every ten years or at an earlier special election.

A “no” vote will not reauthorize this sales/use tax.

If passed, this measure will have no impact on taxes.

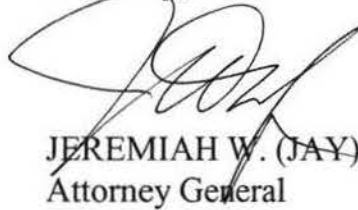
Pursuant to Section 116.025, we approve the legal content and form of the proposed fair ballot language statement.



Honorable Robin Carnahan  
Page 2

Since our review of the fair ballot language statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the Senate Joint Resolution, or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the printed name and title.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

May 3, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 115-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This office received your letter of April 24, 2006, submitting to us a summary statement prepared under Section 116.334, RSMo, for an initiative petition submitted by Steven L. Reed to amend the Constitution of Missouri by adding Section 17(b) to Article IV, pertaining to recall of statewide elected officials (version 2). The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to allow voters to recall elected state officers?

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General

COLLEGES:  
OFFICERS:  
RESIDENCE:  
VACANCY IN OFFICE:

If trustees of community college districts who are elected to represent subdistricts, and who must be residents of those subdistricts at the time of election pursuant to Section 178.820, RSMo 2000, move their residence from those subdistricts, those trustees are disqualified from the office of trustee.

OPINION NO. 116-2006

May 15, 2006

Honorable Brad Robinson  
State Representative, District 107  
State Capitol, Room 109H  
201 West Capitol Avenue  
Jefferson City, MO 65101-6806

Dear Representative Robinson:

You have submitted the following questions regarding community college districts to our office for response:

1. Is a trustee who lived in their elective sub-district as of the time of their election as trustee, but subsequently changes their domicile to another trustee's elective sub-district still eligible to serve as trustee?
2. Alternatively, does the statutory requirement that a trustee be domiciled and a resident of the sub-district as set forth in Section 178.820.4, RSMo[,] only apply to the trustee's domicile and residence as of the date of election, or does the use of the word domicile indicate that the trustee must remain a resident of the sub-district for their tenure as trustee?

To respond to your inquiry, we must review the statutes that provide for community college districts and the provision that allows for a district to organize into subdistricts.

Section 178.800<sup>1</sup> allows the voters from each component school district in a proposed community college district to petition for the creation of that district. If the State Board of Education determines that the proposed area meets the applicable standards, it shall order that the question of creating the new district be submitted to the voters. In that same election, the voters shall elect six trustees at large from the entire proposed district. Section 178.820.1.

After the initial election approving the district, the board may adopt a resolution establishing a redistricting committee to consider forming subdistricts within the community college district. If adopted, the board shall forward a copy of the resolution to the Coordinating Board for Higher Education to request the appointment of a redistricting committee. The redistricting committee, composed of residents of the affected district, shall adopt a redistricting plan creating at least two but no more than six subdistricts, apportioned on the basis of population. The redistricting plan may provide for election of trustees by subdistrict, provide for the election of one or more trustees at large and the rest from subdistricts, or provide for the election of all trustees at large with the requirement that each must reside in a certain subdistrict. Section 178.820.2.

We understand that your question is limited to community college districts that have adopted plans pursuant to Section 178.820 whereby at least some trustees are elected by subdistrict, and where trustees elected who are elected from subdistricts in which they reside move into different districts during their term as trustees. You have asked whether such trustees are disqualified from office by having moved out of the subdistrict from which they were elected.

Two subsections of Section 178.820 affect our analysis. First, subsection 4 provides: "Any person running for election as a trustee of a subdistrict shall be domiciled and a resident therein. . . ." That subsection goes on to provide that the Coordinating Board shall approve any redistricting plan

in which the population of any subdistrict divided by the number of trustees to be selected therefrom substantially equals the population of any other subdistrict divided by the number of trustees to be elected therefrom. Upon approval, the redistricting plan shall become effective and *all trustees elected*

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<sup>1</sup>All citations to the Revised Statutes of Missouri are to the 2000 revision.

*thereafter shall be required to be elected from subdistricts in which they are resident.*

(Emphasis added.) Subsection 5 provides additional qualifications for trustees:

Candidates for the office of trustee shall be citizens of the United States, at least twenty-one years of age, who have been voters of the district for at least one whole year preceding the election, and *if trustees are elected other than at large they shall be voters of the subdistricts* for at least one whole year next preceding the election. All candidates for the first board of a district shall file their declaration of candidacy with the coordinating board for higher education.

(Emphasis added.)

Both subsections 4 and 5, then, tie eligibility to residence. But while these provisions explicitly state that candidates for trustee of subdistricts must reside in those subdistricts at least one year prior to the election, Section 178.820 is silent on the effect of trustees moving out of their subdistricts during their terms of office.

Though this circumstance has not been addressed by any Missouri court in the context of community college districts or Section 178.820, there is precedent arising from a similar statute. At issue in *State ex rel. Johnston v. Donworth*, 127 Mo. App. 377, 105 S.W. 1055 (St. L. 1907), was a statute requiring that an alderman be “an inhabitant and resident of the city for one year next preceding his election, and a resident of the ward from which he is elected.” Section 5911, RSMo 1899. The court of appeals addressed a situation similar to the one you posit:

Defendant was elected to [the office of alderman in the Third Ward of the city of Kirkwood] April 3, 1906, and at the time of his election was a resident of the ward; but on April 26, 1907, he changed his residence into the Second Ward of the city, and has since dwelt there.

105 S.W. at 1055. The court held that the “change of residence to another ward disqualifies him to represent the ward by which he was chosen and forfeits his right to office.” *Id.* The court explained the absurd result of a contrary holding:

If a person elected alderman is a resident of the ward on the day of the election, but immediately moves into another ward, he could serve his two-year term; and, if all the aldermen of a city should happen to move into one ward during their respective terms of office, they would still constitute the board of aldermen. Such contingencies are opposed to the policy of the statute, which policy is to require aldermen to be residents of the ward, not only when elected but during their terms of office.

*Id.* at 1056. The court of appeals thus confirmed that Missouri follows the rule adopted by a majority of the states:

The cases generally hold that when residence is a prerequisite to a given office then a change of residence vacates that office, absent a legislative expression to the contrary. . . . [W]hen a statute by its language provides qualifications for an office at the time of election or appointment 'such qualification is a continuing one; that is, it must subsist during the entire term of office.'

*Dorf v. Skolnik*, 280 Md. 101, 115, 371 A.2d 1094, 1101-02 (Md. Ct. App. 1977) (citations omitted), quoting *State ex rel. Fugina v. Pierce*, 191 Wis. 1, 3, 209 N.W. 693 (1926).

The residency requirement imposed by Section 178.820 is comparable to the one at issue in *Donworth*. Again, Section 178.820.5 requires that a trustee elected from a subdistrict must reside in and have been a voter of that subdistrict for at least one year before the election. The logic of the *Donworth* holding as to aldermen elected from districts applies equally well to community college district trustees elected from subdistricts.

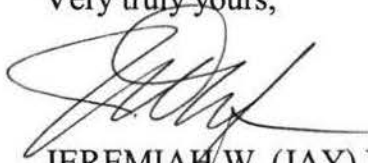
To interpret Section 178.820 to allow trustees, once elected, to move out of their subdistricts, would be contrary to the intent of this provision: that trustees elected to represent subdistricts reside in the subdistricts they represent. That interpretation would permit trustees who reside in and are registered voters in the subdistricts when elected to out of their subdistricts the day after the election. This would frustrate one of the main goals of the statute: to ensure that each subdistrict be represented by a trustee elected from that subdistrict. It would violate a primary rule of statutory construction: to avoid an unreasonable result. *Edwards v. Hyundai Motor America*, 163 S.W.3d 494 (Mo. Ct. App. E.D. 2005).

Honorable Brad Robinson  
Page 5

### CONCLUSION

If trustees of community college districts who are elected to represent subdistricts, and who must be residents of those subdistricts at the time of election pursuant to Section 178.820, RSMo 2000, move their residence from those subdistricts, those trustees are disqualified from the office of trustee.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", with a stylized flourish extending from the end.

JEREMIAH W. (JAY) NIXON  
Attorney General





ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

May 11, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 118-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter dated May 11, 2006, submitting a revised fiscal note summary and fiscal note prepared pursuant to Section 116.175, RSMo. 2000, for an initiative petition submitted by Steven L. Reed, to modify Section 17 of Article IV of the Constitution of Missouri, relating to the recall of statewide elected officials. The fiscal note summary states as follows:

Election costs to state government are contingent upon submission of recall petitions and the timing of resulting elections, and could range from zero to four million dollars. Additional costs may be incurred if state officers prevail in such elections. Such costs may exceed \$100,000. Any costs to local governments are unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the typed name and title.

JEREMIAH W. (JAY) NIXON  
Attorney General





ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

May 5, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

REPLY TO:  
Penntower Office Center  
3100 Broadway  
Suite 609  
Kansas City, MO 64111  
(816) 889-5000  
Fax: (816) 889-5006

OPINION LETTER NO. 119-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter dated May 4, 2006, submitting a revised fiscal note and fiscal note summary prepared pursuant to Section 116.190.4, RSMo. Supp. 2005 and Section 116.175, RSMo. 2000, for an initiative petition (version 2) submitted by Patrick Tuohey, to modify Section 26 of Article I of the Constitution of Missouri, relating to eminent domain. The fiscal note summary states as follows:

The total cost or savings to state and local government entities cannot be known, however, costs to state government are estimated to exceed \$100,000. Estimated costs to local governments will vary, but could be significant.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", is written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

June 1, 2006

OPINION LETTER NO. 121-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a revised, proposed fair ballot language statement with respect to Constitutional Amendment No. 2 pertaining to stem cell research. The statement, prepared pursuant to Section 116.025, RSMo, is as follows:

A "yes" vote will amend the Missouri Constitution to allow and set limitations on stem cell research, therapies, and cures which will:

- ensure Missouri patients have access to any therapies and cures, and allow Missouri researchers to conduct any research, permitted under federal law;
- ban human cloning or attempted cloning;
- require expert medical and public oversight and annual reports on the nature and purpose of any stem cell research;
- impose criminal and civil penalties for any violations; and

Honorable Robin Carnahan

Page 2

- prohibit state or local governments from preventing or discouraging lawful research, therapies and cures.

A “no” vote would not ensure that stem cell research permitted under federal law is allowed to be conducted in Missouri and that Missouri patients have access to stem cell therapies and cures permitted under federal law.

This measure will have no impact on taxes.

Pursuant to Section 116.025, we approve the legal content and form of the revised, proposed fair ballot language statement.

Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of Constitutional Amendment No. 2, or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeremiah W. Nixon', written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

June 5, 2006

OPINION LETTER NO. 122-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a proposed fair ballot language statement for the initiative petition concerning Medicaid. The statement, prepared pursuant to Section 116.025, RSMo, is as follows:

A "yes" vote will amend Missouri Statutes to reinstate state Medicaid healthcare programs and services for eligible low income Missouri families, children, elderly, and disabled that were eliminated by the Missouri General Assembly in 2005. The proposition also will modify the income eligibility limit for Missourians who receive permanent and total disability benefits or aid to the blind benefits. It will provide healthcare coverage for custodial parents of children who are eligible to receive Medicaid benefits. In addition, it would prevent the state Medicaid program from being abolished on June 30, 2008.

A "no" vote will not reinstate the state Medicaid healthcare programs and services that were eliminated by the Missouri General Assembly in 2005. It also will allow the state Medicaid

Honorable Robin Carnahan  
Page 2

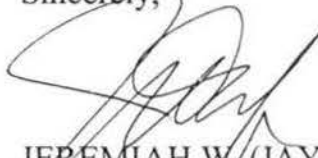
healthcare program for low income Missouri families, children, elderly, and disabled to be abolished on June 30, 2008.

This measure will have no impact on taxes.

Pursuant to Section 116.025, we approve the legal content and form of the proposed fair ballot language statement.

Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of initiative petition, or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jay Nixon', is written over the printed name.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

June 5, 2006

OPINION LETTER NO. 123-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a proposed fair ballot language statement for the initiative petition concerning a tobacco tax. The statement, prepared pursuant to Section 116.025, RSMo, is as follows:

A "yes" vote will amend the Missouri Constitution to create the Healthy Future Trust Fund. This Fund will be used to reduce and prevent tobacco use. The Fund also will be used to increase funding for healthcare access and treatment for eligible low-income Missourians and Medicaid recipients. In addition, it will pay for the cost of administering the fund.

Money for the Fund will be generated by a tax on tobacco products. The tax will be four cents per cigarette and twenty percent on other tobacco products.

This Fund will be maintained and kept separate from general revenue and it will be audited annually.

A "no" vote means a Healthy Future Trust Fund would not be created to reduce and prevent tobacco use or increase funding for healthcare access and treatment for eligible low-income

Honorable Robin Carnahan  
Page 2

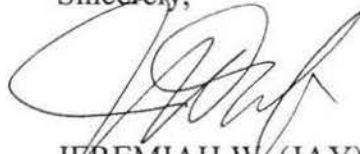
Missourians and Medicaid recipients. And no additional tax would be imposed on tobacco products.

If passed, this measure will increase taxes on tobacco products.

Pursuant to Section 116.025, we approve the legal content and form of the proposed fair ballot language statement.

Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of initiative petition, or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

June 5, 2006

OPINION LETTER NO. 124-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a proposed fair ballot language statement for the initiative petition concerning the minimum wage. The statement, prepared pursuant to Section 116.025, RSMo, is as follows:

A "yes" vote will amend Missouri statutes to increase the state minimum wage rate to \$6.50 per hour, or to the level of the federal minimum wage, whichever is higher. Every year thereafter, the minimum wage rate will be adjusted based on changes in the Consumer Price Index.

A "no" vote will not increase or set a state minimum wage rate.

This measure will have no impact on taxes.

Pursuant to Section 116.025, we approve the legal content and form of the proposed fair ballot language statement.

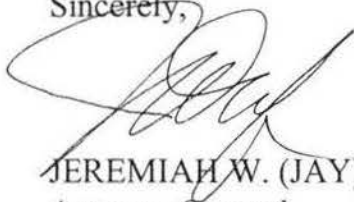


Honorable Robin Carnahan

Page 2

Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of initiative petition, or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over the printed name.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

June 19, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 126-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a revised, proposed summary statement prepared under Section 116.160, RSMo, for Senate Joint Resolution 26. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to include a tax exemption for real and personal property that is used or held exclusively for nonprofit purposes or activities of veterans' organizations?

Pursuant to Section 116.160, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the Senate Joint Resolution, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

June 19, 2006

OPINION LETTER NO. 127-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a revised, proposed fair ballot language statement pursuant to Section 116.025, RSMo, for Senate Joint Resolution 26, pertaining to a tax exemption and veterans' organizations. The fair ballot language statement is as follows:

A "yes" vote will amend the Missouri Constitution to include a tax exemption for real and personal property that is used or held exclusively for nonprofit purposes or activities of veterans' organizations.

A "no" vote will not amend the Missouri Constitution to include a tax exemption for real and personal property that is used or held exclusively for nonprofit purposes or activities of veterans' organizations.

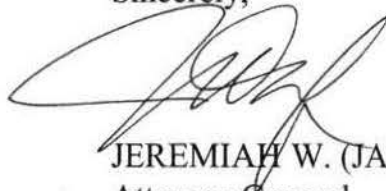
The measure, if passed, and if an exemption from taxation is subsequently enacted, will decrease taxes on real and personal property used or held exclusively for nonprofit purposes or activities of veterans' organizations.

Pursuant to Section 116.025, we approve the legal content and form of the fair ballot language statement.

Honorable Robin Carnahan  
Page 2

Because our review of the fair ballot language statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of Senate Joint Resolution 26, or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over the printed name.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
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June 19, 2006

OPINION LETTER NO. 128-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a revised, proposed fair ballot language statement pursuant to Section 116.025, RSMo, for House Joint Resolution 55, pertaining to the state pensions and compensation of certain officials. The fair ballot language statement is as follows

A "yes" vote will amend the Missouri Constitution to disqualify any statewide elected official, member of the General Assembly or state judge from receiving any pension from the state of Missouri if such official is convicted of a felony which occurred while in office. These officials will also be disqualified from receiving a pension if they are removed from office for misconduct or after impeachment. These restrictions shall apply after January 1, 2007.

This Proposition further changes provisions relating to the Missouri Citizens' Commission on Compensation for Elected Officials. The Constitution currently provides that every two years, a citizens commission determines the compensation for statewide elected officials, members of the General Assembly, and state judges based on their duties. The purpose of this commission is to ensure that the power to control the rate of compensation of elected officials is retained and exercised by

Missouri taxpayers. This Proposition will prevent the General Assembly from changing the commission's recommended compensation schedule for elected officials through the appropriation process. Instead, the General Assembly will only be allowed to disapprove the commission's recommendations by a two-thirds majority vote. Members of the General Assembly cannot receive any compensation increase approved by the Citizens' Commission until January 1, 2009.

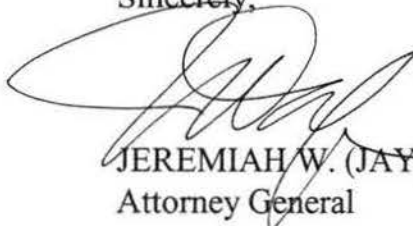
A "no" vote would allow payment of a pension from the state of Missouri to any statewide elected official, legislator or state judge who is convicted of a felony occurring while they were in office or who were removed from office for misconduct or following impeachment. The compensation schedule of statewide elected officials, legislators and state judges determined every two years by the Citizens' Commission would continue to be subject to change by the General Assembly through the appropriation process.

This measure will have no impact on taxes.

Pursuant to Section 116.025, we approve the legal content and form of the fair ballot language statement.

Because our review of the fair ballot language statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of House Joint Resolution 55, or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", is written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY  
65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

June 22, 2006

OPINION LETTER NO. 129-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated June 19, 2006, for our review under Section 116.332, RSMo, of the sufficiency as to form of a referendum petition sample sheet, submitted by Missouri Election Reform Project, Inc., to repeal the provisions of HB 1900 pertaining to campaign finance.

We approve the petition as to form. But Section 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", is written over a circular embossed seal.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

July 7, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 131-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of June 27, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for Senate Joint Resolution 26 submitting to the voters a constitutional amendment relating to veterans' organizations and tax exemption. The fiscal note summary that you submitted is as follows:

It is estimated this proposal will have a minimal cost to state government. The estimated costs to local governmental entities range from zero to approximately \$45,000.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the Senate Joint Resolution or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the typed name and title.

JEREMIAH W. (JAY) NIXON  
Attorney General





ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

July 7, 2006

OPINION LETTER NO. 132-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of June 27, 2006, submitting a fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for House Joint Resolution 55 submitting to the voters a constitutional amendment relating to public officials. The fiscal note summary that you submitted is as follows:

It is estimated this proposal will have no costs to state or local governments.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the House Joint Resolution or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A large, stylized handwritten signature of Jeremiah W. (Jay) Nixon is written over the typed name and title.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

July 10, 2006

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

OPINION LETTER NO. 133-2006

Honorable Robin Carnahan  
Missouri Secretary of State  
James C. Kirkpatrick State Information Center  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a revised proposed summary statement prepared under Section 116.334, RSMo, for a referendum relating to House Bill 1900 and campaign finance. The proposed summary statement is as follows:

Shall Missouri statutes be amended to:

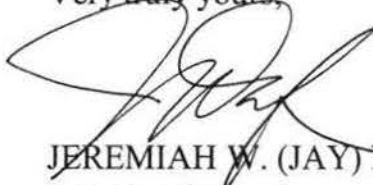
- eliminate the state's existing campaign contribution limits thereby allowing candidates for political office to accept unlimited contributions from any individual or entity, but not allow monetary contributions from a political party committee nor contributions to certain candidates during the legislative session;
- prohibit the Missouri Ethics Commission from accepting complaints regarding violations of the campaign finance disclosure law within 15 days prior to an election and revise other Commission procedures;
- restrict certain lobbyist expenditures and revise lobbyists' reporting requirements; and
- revise candidate qualification requirements?

Honorable Robin Carnahan

Page 2

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the referendum, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeremiah W. (Jay) Nixon', is written over the typed name.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

July 11, 2006

OPINION LETTER NO. 134-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter submitting a fiscal note and revised fiscal note summary prepared under Section 116.175, RSMo, for a referendum petition proposed by the Missouri Election Reform Project, Inc. The petition submits to the voters a referendum on House Bill 1900, pertaining to campaign finance. The fiscal note summary that you submitted is as follows:

It is estimated this proposal will have no costs or savings to state or local governments. However, it is estimated the proposal will generate additional lobbyist filing fees of \$10,000 annually into the state general revenue fund.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the referendum petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", is written over a printed name and title.

JEREMIAH W. (JAY) NIXON  
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL

P.O. Box 899  
(573) 751-3321

August 24, 2006

OPINION LETTER NO. 139-2006

Honorable Claire C. McCaskill  
Missouri State Auditor  
224 State Capitol Building  
Jefferson City, MO 65101

Dear Auditor McCaskill:

This office received your letter of August 16, 2006, submitting a revised fiscal note and fiscal note summary prepared under Section 116.175, RSMo, for an initiative petition, submitted by Patrick Tuohey (version 2), to add a new Article XIV to the Constitution of Missouri relating to state spending. The fiscal note summary that you submitted is as follows:

The estimated fiscal impact on state government is approximately \$280 million for fiscal year 2008. The impact on state government for future years is unknown. The impact on local government is unknown.

Under Section 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON  
Attorney General

APPOINTIVE OFFICERS:  
CITY COUNCIL - COUNCILMEN:  
CITIES, TOWNS AND VILLAGES:  
ELECTIVE OFFICERS:  
REMOVAL FROM OFFICE:

A city councilperson appointed by the mayor to fill a vacancy for the unexpired term of that position must be removed in accordance with the procedures applicable to elective, rather than appointive, officials set forth in Section 77.340.

OPINION NO. 140-2006

September 1, 2006

Honorable Maria Chappelle-Nadal  
State Representative, District 72  
State Capitol Building, Room 105H  
Jefferson City, MO 65101

Dear Representative Chappelle-Nadal:

This opinion is in response to your question in which you asked whether a city official appointed by the mayor and approved by the city council to fill a vacancy for the unexpired term of a councilperson is considered an "appointive officer" or an "elective officer" for purposes of determining the proper procedures for removal under Section 77.340, RSMo.<sup>1</sup>

Section 77.340 provides that:

The mayor may, with the consent of a majority of all the members elected to the city council, remove from office, for cause shown, any elective officer of the city, such officer being first given opportunity, together with his witnesses, to be heard before the council, sitting as a court of impeachment. Any elective officer may, in like manner, for cause shown, be removed from office by a two-thirds vote of all the members elected to the city council, independently of the mayor's approval or recommendation. The mayor may, with the consent of a majority of all the members elected to the council, remove from office any appointive officer of the city at will; and any

---

<sup>1</sup>Statutory references are to the Revised Statutes of Missouri, 2000, unless otherwise noted.

such appointive officer may be so removed by a two-thirds vote of all the members elected to the council, independently of the mayor's approval or recommendation. The council may pass ordinances regulating the manner of impeachment and removals.

The city council is an elected body pursuant to Section 77.030. Therefore, a city councilperson is normally an elected official. In this case, the councilperson was appointed to her position to fill a vacancy, so the question regarding the proper method of removal has arisen.

Our research has revealed no cases addressing the issue you raise. Therefore, we employ the customary rules of statutory construction to interpret Section 77.340. The primary rule of statutory construction is "to ascertain the intent of the legislature from the language used, to give effect to that intent if possible, and to consider words in the statute in their plain and ordinary meaning." *Day v. Wright County*, 69 S.W.3d 485, 490 (Mo. App. S.D. 2000). Undefined words are given their plain and ordinary meaning as found in the dictionary in order to ascertain the intent of lawmakers. *Asbury v. Lombardi*, 846 S.W.2d 196, 201 (Mo. banc 1993). In construing a statute, it is appropriate to take into consideration statutes involving similar or related subject matter when such statutes shed light upon the meaning of the statute being construed, even though the statutes were enacted at different times. *Citizens Elec. Corp. v. Dir. of Dep't of Revenue*, 766 S.W.2d 450, 452 (Mo. banc 1989).

Employing these principles, we note that Section 77.340 prescribes rules for the removal of "elective" and "appointive" officials, not "elected" or "appointed" officials. WEBSTER'S II NEW COLLEGE DICTIONARY defines "elective" as: "1. Of or relating to a selection by vote. 2. Filled or obtained by election <elective positions>." By contrast, "elected" means "select[ed] by vote for an office[.]" BLACK'S LAW DICTIONARY defines "elective" as "bestowed or passing by election," and "elective office" as "one which is to be filled by popular election." Similarly, WEBSTER'S II defines "appointive" as "relating to or filled by appointment," and "appointed" means "name[d] to fill an office or position." From these definitions, we believe that the legislature intended that the different procedures described in Section 77.340 pertain to the offices themselves, regardless of whether the person filling the office does so as a result of an appointment.

Our conclusion is bolstered by Section 77.450, RSMo Cum. Supp. 2005, which should be read *in pari materia* with Section 77.340. It provides that:

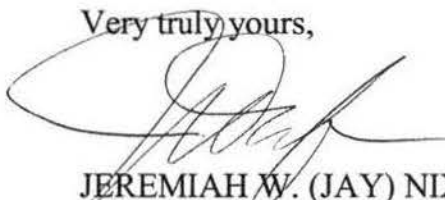
If a vacancy occurs in any elective office other than the office of mayor, a successor to the vacant office shall be selected by appointment by the mayor with the advice and consent of a majority of the remaining members of the council. . . . If a vacancy occurs in any office not elective, the mayor shall appoint a suitable person to discharge the duties of the same . . . .

This statute also makes it clear that the distinction in Chapter 77 is between “elective” and “appointive” offices, not between “elected” and “appointed” officers. The distinction has to do with the nature of the office rather than its particular occupant at any given time. Accordingly, we are of the opinion that the appropriate procedures for removing a city councilperson under the circumstances described in your inquiry are those that related to an elective official.

#### CONCLUSION

It is the opinion of this office that a city councilperson appointed by the mayor to fill a vacancy for the unexpired term of that position must be removed in accordance with the procedures applicable to elective, rather than appointive, officials set forth in Section 77.340.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeremiah W. Nixon', is written over a large, stylized, handwritten 'J' or 'N' that serves as a background for the signature.

JEREMIAH W. (JAY) NIXON  
Attorney General